IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Special Appeal No. 87 of 2006

Pankaj Kumar Tripathi S/o Sri Mahesh Prasad Tripathi,
R/o Jwala Farm, Teri Puliya,
Kathgodam, District Nainital. …… Appellant

Versus

1. Chairman, Public Service Tribunal,
   Uttaranchal, Dehradun.
2. Registrar, Public Service Tribunal,
   Uttaranchal, Dehradun.
3. State of Uttaranchal through Principal Secretary,
   Personnel Department,
   Govt. of Uttaranchal, Dehradun. …… Respondents

Mr. Manoj Tewari, Advocate for the appellant.
Mr. Nanak Chand Gupta, Standing Counsel for the respondents.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble Rajesh Tandon, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. Manoj Tewari, Advocate for the appellant.

Mr. Nanak Chand Gupta, Standing Counsel for the respondents.

They are heard on admission.

2. Appellant Pankaj Kumar Tripathi has filed this Special Appeal against the impugned judgment dated 06.09.2006 passed in Writ petition No. 1208 of 2006 (S/S), whereby the appellant's writ petition was dismissed.

3. Appellant Pankaj Kumar Tripathi had filed the writ petition for the following reliefs:

> "A. To issue a writ, order or direction in the nature of certiorari for quashing the impugned order dated 30.08.2006 passed by respondent no. 1.

B. To issue a writ, order or direction in the nature of mandamus restraining the respondents from interfering with the functioning of the petitioner on the post of Stenographer.

C. To issue any other writ, order or direction, which this Hon'ble Court may deem fit and proper in the circumstances of the case.

D. Award the cost of the writ petition in favour of the petitioner."

4. The appellant, in substance, was seeking quashing of the order dated 30.08.2006, whereby his services were dispensed with.

5. The appellant was appointed as Stenographer on 21.10.2005 on ad hoc basis. The petitioner's services were dispensed with vide order dated 30.08.2006 on the ground that his services were no more required. The petitioner's challenge to the order dated 30.08.2006 was mainly founded on the ground that out of the 12 persons appointed during the tenure of the then Chairman, services of only 10 persons, including the petitioner were dispensed with and the remaining two persons were retained in service.

6. The learned Single Judge, on a thorough consideration of the rival submissions of the learned counsel for the parties and in view of the dicta of the Apex Court in the cases of **State of U.P. Vs. Neeraj Awasthi and others** reported in **(2006) 1 SCC 667** and **the Secretary, State of Karnataka & others Vs. Umadevi & others** reported in **2006 AIR SCW 1991,** did not find any illegality in the order dated 30.08.2006, whereby the petitioner's services were dispensed with. The learned Single Judge, therefore, dismissed the writ petition.

7. It is not in dispute that the petitioner's appointment was on ad hoc basis. The order dated 30.08.2006 clearly mentions that the petitioner's services are no more required. As the petitioner was appointed on ad hoc basis, the order of dispensing with his services was not required to contain any other reason at all.

8. The petitioner's challenge, based on Article 14 of the Constitution of India, does not hold good in view of the dictum of the Apex Court in the case of State of U.P. Vs. Neeraj Awasthi and others (supra), wherein it was observed in para 75:

> "75. The fact that all appointments have been made without following the procedure, or services of some persons appointed have been regularised in the past, in our opinion, cannot be said to be normal mode which must receive the seal of the court. Past practice is not always the best practice. If illegality has been committed in the past, it is beyond comprehension as to how such illegality can be allowed to perpetuate. The State and the Board were bound to take steps in accordance with law. Even in this behalf Article 14 of the Constitution will have no application. Article 14 has a positive concept. No equality can be claimed in illegality is now well settled."

9. We, therefore, do not find any infirmity or illegality in the impugned judgment, which may warrant interference in this Special Appeal.

10. The Special Appeal, therefore, is liable to be dismissed and is hereby dismissed summarily.

11. Consequently, CLMA No. 11902 of 2006 also stands dismissed.

(Rajesh Tandon, J.) 19.09.2006

(Rajeev Gupta, C.J.) 19.09.2006

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